



UNITED STATES PATENT AND TRADEMARK OFFICE

RAK/IT  
6328/70496

48

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)  
DW 03-04

FITCH EVEN TABIN AND FLANNERY  
120 SOUTH LA SALLE STREET  
SUITE 1600  
CHICAGO IL 60603-3406

PAGE NO. 20  
COPY MAILED

SEP 03 2004

DOCKETED OFFICE OF PETITIONS

SEP 16 2004

BY: D. G.

In re Application of  
Jenkins et al.  
Application No. 09/777,979  
Filed: 6 February, 2001  
Attorney Docket 70496

:  
: DECISION GRANTING  
: PETITION  
:  
:

This is a decision on the renewed petition, filed under 37 CFR 1.182, on 30 October, 2002, which is treated as a petition under requesting that the above-identified application, without drawings, be accorded a filing date of 2 February, 2001.

The Office apologizes for the delay in responding to the present petition, and regrets any inconvenience to petitioners.

The application was filed on 6 February, 2001, without drawings. Accordingly, on 10 December, 2001, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary. The petition filed on 26 February, 2002, was dismissed on 25 June, 2002.

In response, on 30 October, 2002 (certificate of mailing date 25 October, 2002) the present request for reconsideration was filed. Petitioners assert that the drawings are not necessary for an understanding of the subject matter sought to be patented. Petitioners request that the application, without drawings, be accorded a filing date of 6 February, 2001.

It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention

<sup>1</sup>35 U.S.C. § 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."

under 35 U.S.C. 113 (first sentence).<sup>2</sup> A review of the record reveals that Claims 16-44 are method claims. Therefore, the present application is deemed to be an application which does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date.

The petition is granted. No petition fee has been charged and none is due.

The "Notice of Incomplete Nonprovisional Application" mailed on 10 December, 2001, was sent in error and is hereby vacated.

As Office records indicate the application has already been accorded a filing date of 6 February, 2001, the application is being forwarded to Technology Center 3700 for further processing.

Telephone inquiries specific to this matter should be directed to the undersigned at 703.308.6918.



Douglas I. Wood  
Senior Petitions Attorney  
Office of Petitions

---

<sup>2</sup>MPEP §01.01(f).